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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,200	09/26/2003	Rita Parikh	26000	8943
29668	7590	11/16/2005	EXAMINER	
PFIZER, INC.			LE, HUYEN D	
201 TABOR ROAD			ART UNIT	
MORRIS PLAINS, NJ 07950			PAPER NUMBER	

3751

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,200

Applicant(s)

PARIKH ET AL.

Examiner

Huyen Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8,10-14,17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “ a three-dimensional” should be added to the word “ wedge shape”.

Claim Objections

2. Claim 1 is objected to because of the following informalities: line 6, after “applicator tip”, --member—should be added. Appropriate correction is required.
3. Claim 17 is objected to because of the following informalities: it repeats the subject matter of previous claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 12-14, 17, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Dragan (6,929,475).

The Dragan reference discloses an applicator device for cleaning teeth comprising an elongated tubular shaft member 140 with an applicator tip member 146

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positioned at one end, and an oral care composition positioned inside the tubular shaft member and adapted to be released and passed into the applicator tip member 146, wherein the applicator tip member 146 has an abrasive surface (pre-dosed with an abrasive material, col. 3, lines 17-18) and the applicator tip comprises a sponge material has a three-dimensional wedge shape suitable for cleaning the spaces between the teeth.

Regarding claim 12, the tubular shaft member has gripping means 152 thereon to assist in being held during use.

Regarding claims 13, 14, 17, 19 and 20, the method of cleaning would be inherently performed during the normal use of the Dragan applicator.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over over Dragan (6,929,475) in view of Truhan (3,519,364).

Although the Dragan reference does not disclose a plugging material positioned inside a tubular shaft, attention is directed to Truhan reference which discloses an applicator comprising a plugging material 24 in the tubular member.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a plugging material in the Dragan applicator

device in view of the teaching of Truhan reference for preventing the liquid content stored in the tubular member from flowing out unexpected and keeping the content from dryness.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan (6,929,475).

Although the Dragan reference does not specifically disclose that oral composition comprises an essential oil, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select an oral composition having oil, since selecting a known material on the basis of its suitability for the intended use is a mere matter of obvious design choice. In re Leshin, 125 USPQ 416.

9. Claims 1, 10, 13, 14, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vigil (6,205,611) in view of O'Neal et al (4,176,980).

Vigil reference discloses an applicator device for cleaning teeth comprising an elongated tubular shaft member 20 with an applicator tip member 30 positioned at one end, wherein the applicator tip member 30 has an abrasive surface and the applicator tip comprises a sponge material has a three-dimensional wedge shape 36 suitable for cleaning the spaces between the teeth.

Although the Vigil cleaning device does not include an oral care composition positioned inside the tubular shaft member 20 and adapted to be released and passed into the applicator tip member, attention is directed to the O'Neal et al reference which discloses a toothbrush comprising a handle having a dentifrice disposed inside.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the Vigil teeth cleaning device to include a dentifrice inside a handle in view of the teaching of the O'Neal et al reference for portability purposes and convenient use.

Regarding claims 13, 14, 17, 19 and 20, the method of cleaning would be inherently performed during the normal use of the modified Vigil cleaning applicator 10. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vigil (6,205,611) in view of O'Neal et al (4,176,980) and further in view of Benz (2,141,969).

The Vigil reference in view of O'Neal et al teaches a teeth cleaning device as describe above.

Although the Vigil reference does not disclose a pick member removably positioned at one end of the handle, attention is directed to the Benz reference which discloses a toothbrush having a pick member 14' movably disposed at the end of a handle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a removable pick member on the Vigil teeth cleaning device in view of the teaching of Benz for increasing versatility of the cleaning device.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vigil (6,205,611) in view of O'Neal et al (4,176,980)

Although Vigil (6,205,611) in view of O'Neal et al does not teach that oral composition comprises an essential oil, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select an oral composition having oil, since selecting a known material on the basis of its suitability for the intended use is a mere matter of obvious design choice. In re Leshin, 125 USPQ 416.

Allowable Subject Matter

12. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments filed on 08/19/2005 with respect to claims 1, 7, 8, 10-14, 16, 17, 19 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wozab show an applicator having a wedge shape.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL

November 10, 2005


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
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11/14/05